First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Masset First Nation

DOC
BC
W324
D:F57M27
1999
[ie2000]
c.3

WATER BC our vital resource
Ministry of Environment, Lands and Parks

LEGISLATIVE LIBRARY
VICTORIA, BC

BRITISH COLUMBIA

3 3298 00230 4740

100-04951/

MINISTRY OF ENVIRONMENT, LANDS and PARKS
WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Masset First Nation

Research and writing by:	Diana Jolly
Edit by:	Sarah Cheevers Christina Rocha Miranda Griffith
Review by:	Gary W. Robinson
Prepared for publication:	December, 1999

Canadian Cataloguing in Publication Data
Jolly, Diana.
First Nations water rights in British Columbia. A historical summary of the rights of the Masset First Nation

ISBN 0-7726-4127-7

1. Water rights - British Columbia - Masset Indian Reserve No. 1. 2. Haida Indians - British Columbia - Masset Region - Government relations.
I. Cheevers, Sarah. II. Rocha, Christina.
III. Griffith, Miranda. IV. Robinson, Gary W.
V. British Columbia. Water Management Branch.
VI. Title. VII. Title: Historical summary of the rights of the Masset First Nation.

KEB529.5.W3J65 2000 346.71104'32 C00-960034-5
KF8210.W38J65 2000

ACKNOWLEDGMENTS

The Ministry of Environment, Lands and Parks wishes to acknowledge three partners whose contributions were invaluable in the completion of the *Aboriginal Water Rights Report Series:*

The Ministry of Aboriginal Affairs, was a critical source of funding, support and direction for this project.

The U-Vic Geography Co-op Program, was instrumental in providing the staffing resources needed to undertake this challenging task. Through the services of June Whitmore and her office, the project benefited from the research, writing, editing and co-ordination of these outstanding students:

Jas Gill
Julie Steinhauer
Kelly Babcock
Daniella Mogus
Miranda Griffith
Christina Rocha
Rachel Abrams
Elizabeth Lee
Sara Cheevers

The services of Clover Point Cartographics Limited of Victoria, was responsible for the preparation of most of the map drawings, which form a valuable part of these documents.

In addition to these three key partners, I must acknowledge the valuable contributions of other Water Management staff, past and present, including Jack Farrell, Jim Mattison, Richard Penner, Diana Jolly, Greg Blaney, Gary Lucas and Kim Johnston.

The sheer numbers of First Nations groups' with histories of water rights made the completion of the Report Series seem, at times, prolonged. The determination, patience and vision of the partners was essential in the completion of the Series and is gratefully acknowledged.

Gary Robinson
Project Manager
Water Management Branch

TABLE OF CONTENTS

LOCATION 1

WATER ALLOCATIONS 2

HISTORY, CURRENT STATUS, AND NOTES 2

King Creek
History 2
Current Status 3
Notes 3

OTHER INFORMATION 3

APPENDICES:

TAB NO.

1. TABLE: Summary of Water Records for the Masset Band.

2. LICENSE AND PLATS
   Conditional Water License 55363.

3. COPY OF THE DATA SUMMARY OF GROUNDWATER RECORDS IN THE MASSET AREA.

4. MAPS:
   1) Masset Reserves and area
      i) Map showing diversion of CWL 55363

FIRST NATIONS WATER RIGHTS REPORT

BAND: Masset

ADDRESS: PO Box 189, Masset, Haida Gwaii, BC, V0T 1M0

CHIEF: Wilson Brown

PHONE: 626-3337 **FAX:** 626-5440

AFFILIATION: Council of the Haida Nation
North Coast Tribal Council

LOCATION:

The Masset Band occupies 26 separate reserves on the northern portion of Graham Island, the northernmost of the Queen Charlotte Island chain. The reserves are:

Ain 6	Cohoe Point 20	Daningay 12
Egeria Bay 19	Guoyskun 22	Hiellen 2
Jalun 14	Kioosta 15	Kose 9
Kung 11	Lanas 4	Mammin River 25
Masset 1	Meagwan 8	Naden 10
Naden 23	Owun 24	Saouchten 18
Satunquin 5	Susk 17	Tatense 16
Tiahn 27	Yagan 3	Yan 7
Yasitkun 21	Yatze 13	

The most recent population figures compiled by the Ministry of Finance report that the Masset Band has a population of 614 persons living on-reserve as registered members. The total population of the Band, including registered and non-registered members living on-reserve, on crown land and off-reserve, is 2,224.

On the Queen Charlotte Islands, the reserves are located at elevations ranging from sea level to 1000 feet above mean sea level. The regional climate consists of average daily temperatures which range from lows of -5 degrees centigrade, in January, to highs of 16 degrees centigrade, in July. Annual rainfall in the area averages between 100 and 250 centimetres.

Water courses of significance include:

- King Creek - flows east into Yakoun River. King Creek is located northeast of Shields Bay on Graham Island.

WATER ALLOCATIONS:

There is no indication that water licenses have been granted to the Masset Band on any of their reserves. There is no evidence that allocations of water were made by either the Indian Reserve Commission or by an Order-in-Council of the Lieutenant Governor-in-Council.

The Masset Band holds one water license on King Creek. The license is appurtenant to land that is not owned by the Band.

HISTORY, CURRENT STATUS, AND NOTES:

The history of water rights, the current status of rights and notes for the Masset Band with respect to King Creek are as follows:

King Creek

History

Apr 15, 1981 The Comptroller of Water Rights issued Conditional Water License 55363 to the Masset Band Council in response to an application filed by the Band. The license was assigned a date of precedence of October 9, 1979 and authorizes the diversion of 0.25 cubic feet of water per second from King Creek for conservation (fish hatchery) purposes on the South East 1/4 of Section 2, Township 8, Graham Island, Queen Charlotte District, held under map notation 920-5-203.

A clause was included in Conditional Water License 55363 which provides that the license may be canceled at such time as Map Notation 920-5-203 is removed by the Ministry of Forests.

Current Status

Conditional Water License 55363 is the only active license on King Creek.

The Water Survey of Canada has no records of streamflow on King Creek. No alternate sources of water availability data for the Creek were located during the course of this study.

Notes:

1. There is no additional information with respect to the rights of the Masset Band on King Creek.

OTHER INFORMATION:

Additional Water Records:

The *Schedule of Indian Reserves in the Dominion, 1913*, is a document published by the federal government, recording each Band's water allocations up to 1913. It is believed that these records are a compilation of Minute of Decisions, Order-in-Councils, and other documents. As original copies of the documents referenced in the schedule are unavailable, the dates and information contained in them cannot be verified.

Allocations in the *Schedule of Indian Reserves in the Dominion* for the benefit of the Masset Band, which are inconsistent with our findings are:

Reserve	Water Allocation
All reserves	*The Masset Indians have the privilege of fishing in the Yakoun river for a distance of 1 mile up-stream from the southeastern corner of reserve No.4*
All reserves	*The Masset Indians have the privilege of fishing in the Jalun river for a distance of 1 mile above tidal water.*

Groundwater Records:

A review of well records maintained by the MELP - Groundwater Section reported that two wells have been reported on Masset Band Reserves. Of the two wells, one has a reported yield of 40 gallons per minute, the second did not report yield. The extent to which the wells are currently utilized, is unknown. Further details have been appended to the report. As provision of well information to the Groundwater Section is voluntary, this review should not be assumed to be complete.

Municipal Water Sources:

Presently, the potential for water supply from a municipality system is limited as there are no municipal water systems in the proximity of the Masset Band Reserves.

Water Protection Records:

Water Protection Section records report that bank improvement work exists along .22 kilometres of King Creek, within the Masset Band Reserve. All bank protection works are maintained by the Band.

ATTACHMENT 1

Summary of Water Records

Masset Band

Water Source	Priority Date	Reserve Name	File Number	Document Type	Status	Superceded By	Licence PUC/MOD & OIC Allotments	Comments
King Creek	1979/10/09	Not on a Reserve	355464	CL 55363	Current		0.25 CFS/Conservation (fish hatchery)	CL 55363: **Notation**: licence may be cancelled at such time *Map Notation 920-5-203* is removed by MoF. **Priority 1** - King Creek.
King Creek	Unknown			Water Protection Records: Summary Sheet	Current			Water Protection Section Summary Records: **Bank improvement work** - exists along 0.22 km King River within Masset Band Reserve. **Improvements** - maintained by Band.

LEGEND:

Licence Types (Document Types)
CL: Conditional Licence
FL: Final Licence

Mechanisms for Allocation (Document Type)
OIC: Order-in-Council (as issued by the Luitenant Governor in Council)
MOD: Minute of Decision (as recorded under the Indian Reserve Commission)
IRC: Indian Reserve Commission
AGBC: Attorney Generals Office of BC (followed by File #)

Allotment Units (Licence PUC/MOD & OIC Allotments)
GAD: Gallons a day
AF: Acre feet
CFS: Cubic feet per second

ATTACHMENT 2

WATER MANAGEMENT BRANCH

MINISTRY OF ENVIRONMENT

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT

CONDITIONAL WATER LICENCE

Masset Band Council of Box 189, Masset, B.C. V0T 1M0

is hereby authorized to divert and use water as follows:

(a) The source of the water-supply is King Creek.

(b) The point of diversion is located as shown on the attached plan.

(c) The date from which this licence shall have precedence is 9th October, 1979.

(d) The purpose for which the water is to be used is conservation (fish hatchery).

(e) The maximum quantity of water which may be diverted is 0.25 cubic foot per second, and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(f) The period of the year during which the water may be used is the whole year.

(g) The land upon which the water is to be used and to which this licence is appurtenant is part of the South East 1/4 of Section 2, Township 8, Graham Island, Queen Charlotte District, held under map notation 920-5-203.

(h) The works authorized to be constructed are diversion structure, pipe and rearing tanks, which shall be located approximately as shown on the attached plan.

(i) The construction of the said works has been completed and the water shall be beneficially used on or before the 31st day of December, 1982.

(j) This licence may be cancelled at such time as Map Notation 920-5-203 is removed by the Ministry of Forests.

ENTERED ON
Map No. 103F/SE
By KB DPB

J.E. Farrell,
Deputy Comptroller of Water Rights.

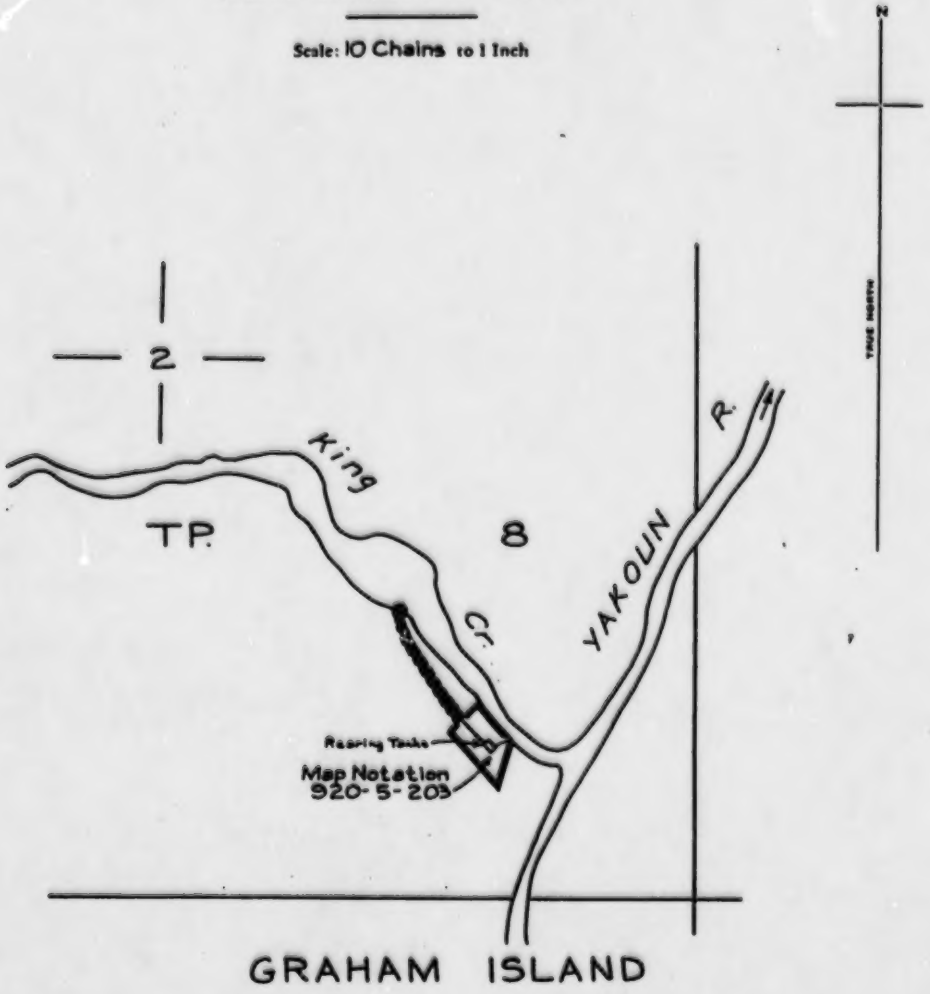
File No. 0355464 Date issued: 15th April, 1981 Conditional Licence 55363

British Columbia

PRINCE RUPERT WATER DISTRICT

QUEEN CHARLOTTE DISTRICT

Scale: 10 Chains to 1 Inch



GRAHAM ISLAND

LEGEND

Point of Diversion ●
Ref. Map 103 F/SE (8f)
Pipe _____ - _____
Right of Way [redacted]

The boundaries of the land to which this licence is appurtenant are shown thus: _____

Signature [signature]

Date 15th April 1981

CL 55363
File 0355464
R/W Permit No. 12790

Queen Charlotte Precinct

Province of British Columbia

Ministry of Environment

PERMIT UNDER THE WATER ACT AUTHORIZING THE OCCUPATION OF CROWN LAND

Masset Band Council of Box 189, Masset, B.C., V0T 1M0

the holder(s) of Conditional/~~Final~~ Water Licence(s) 55363 authorizing
the diversion of water from King Creek

is/are hereby

authorized to occupy Crown land by constructing, maintaining, and operating thereon the works authorized under the said water licence and any licences which may be issued in substitution thereof.

(a) The Crown land which is authorized to be occupied under this permit is a portion of

SE¼ of Section 2, Township 8, Queen Charlotte District

the location of which is shown approximately on the plan attached to the said water licence.

(b) The approximate dimensions of the Crown land authorized to be occupied under this permit are

620 feet in length and 15 feet in width, having an area of 0.21 acre

(c) Subject to the payment of royalty, stumpage, and other compensation, and the obtaining of a licence to cut timber as provided under Condition 5, the permittee may cut and remove from the said land any timber, the removal of which is necessary to permit construction and maintenance of the said works.

(d) The annual rental for this permit is $ 2.00 , which is subject to review and revision at any time at the discretion of the Crown.

(e) This permit is appurtenant to the land, mine, or undertaking to which the aforesaid water licence is appurtenant.

(f) The conditions relative to the rights granted under this permit are printed on the back of this form.

Deputy Minister of Environment

File No. 0355464

Ref. Map 103F/SE(8-E)

W. R. Map - - -

Date issued: April 15, 1981

Permit No. 12790

W.R.D. 12

ATTACHMENT 3

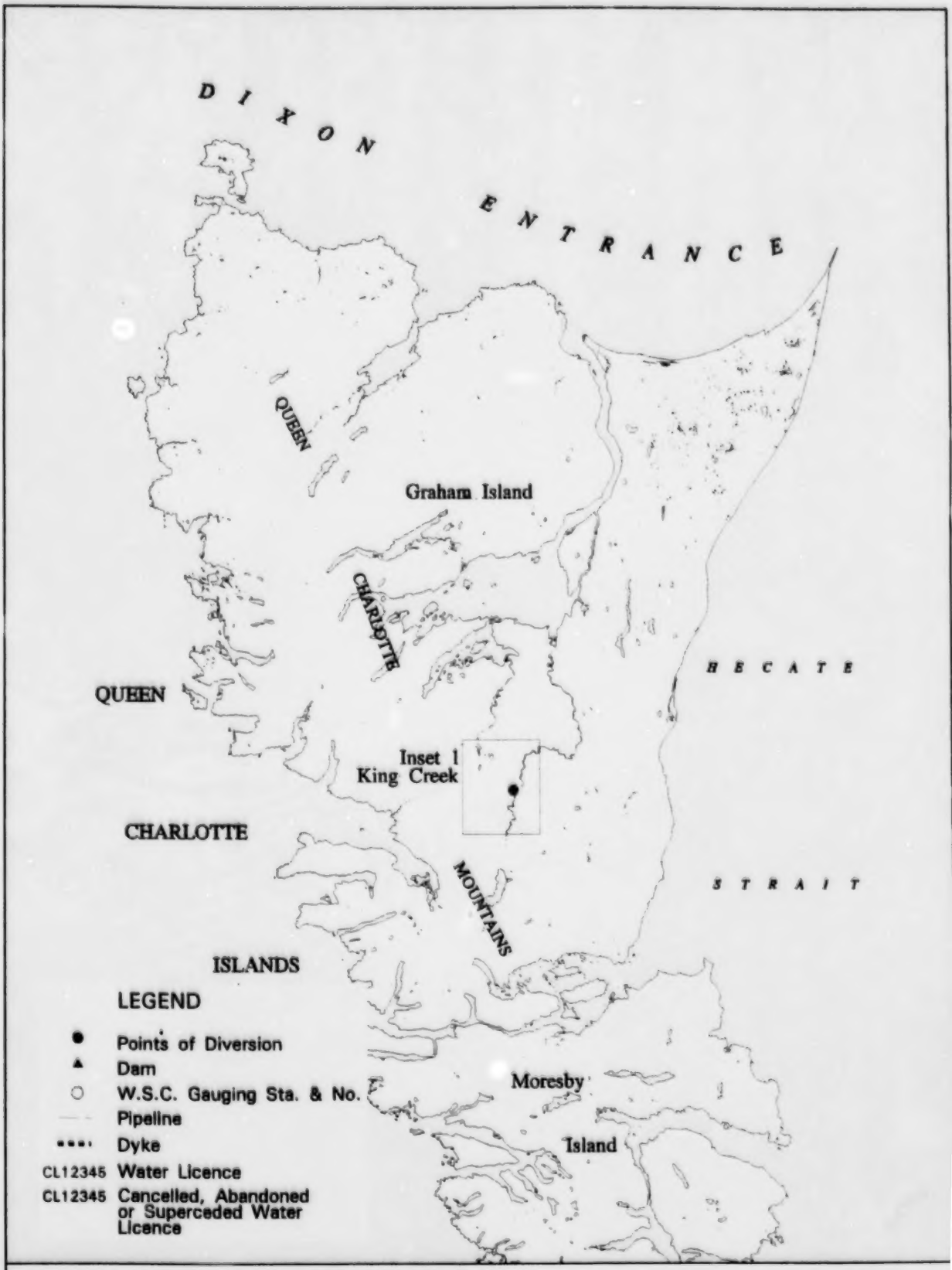
09/08/95

Ministry of Environment - Water Management Branch - Groundwater Section
Groundwater Database System
Data Summary - with Legal Descriptions and Old Coordinates

NTS Map Area	Well No.	Well Tag No.	Lot No.	Plan No.	Blk No.	TP	RC	RG	D.L.	S	X	Y	Old Well No.	L.D.	Site Address	Date Constructed (day)	Well Depth (ft.)	Well Diam. (in.)	Drill Contr No.	Const. Method	Well Yield	Yld. Unit	Depth to Water (ft.)	Depth to Bedrk (ft.)	Aquif Lithe	Screen Interval (ft.)	G.W. Rpt	Ch Le
103E.010.1.3.1	001	0000000016630								00	00	00	000	45														
103E.010.1.3.1	002	0000000033540								00	00	00	000	45		01-08-1960	20.0	12.0	066	DRI	5.5	GPM	15	UNK	UNC			
103E.010.1.3.1	003	0000000000000	27	1032	29				361	00	00	00	000	45		29-09-1975	49.0	12.0	067	DRI	599.0	GPM	16	UNK	UNC	43-58		
103E.010.1.3.1	003	0000000019263	16	1032	33				361	00	00	00	000	45		01-01-1970	14.0	0.0	UNK	DRI			10	UNK	UNC			
103E.010.1.3.2	001	0000000019263	16	1032	33				361	00	00	00	000	45		01-05-1965	88.0	8.0	086	DRI	250.0	IGM	13	UNK	UNC			Y
103E.010.1.3.4	001	0000000023180	1	1082					233	00	00	00	000	45	BC HYDRO STN	01-01-1970	49.0	6.0	045	UNK			9	UNK	UNC	0-49		
103E.010.1.3.4	001	0000000016631								00	00	00	000	45		01-08-1960	32.0	6.0	086	DRI	45.0	UNKN	UNK	UNK	UNC			
103E.010.1.3.4	002	0000000016631								00	00	00	000	45		22-10-1975	72.5	6.0	067	DRI	40.0	GPM	42	UNK	UNC	63-68		
103E.010.1.3.3	001	0000000023737								00	00	00	000	45		01-01-1970	0.0	0.0	UNK	DRI			UNK	UNK	UNC			
103E.010.1.3.3	002	0000000026979								00	00	00	000	45	HAINA INDIAN VILLAGE	01-01-1970	25.0	1.5	UNK	OTH	15.0	GPM	2	UNK	UNC	23-25		
103E.010.2.3.1	001	0000000016964							9	00	00	00	000	45														

DISCLAIMER: The Province disclaims all responsibility for the accuracy of this information. This information should not be used as a basis for making financial or any other commitments.

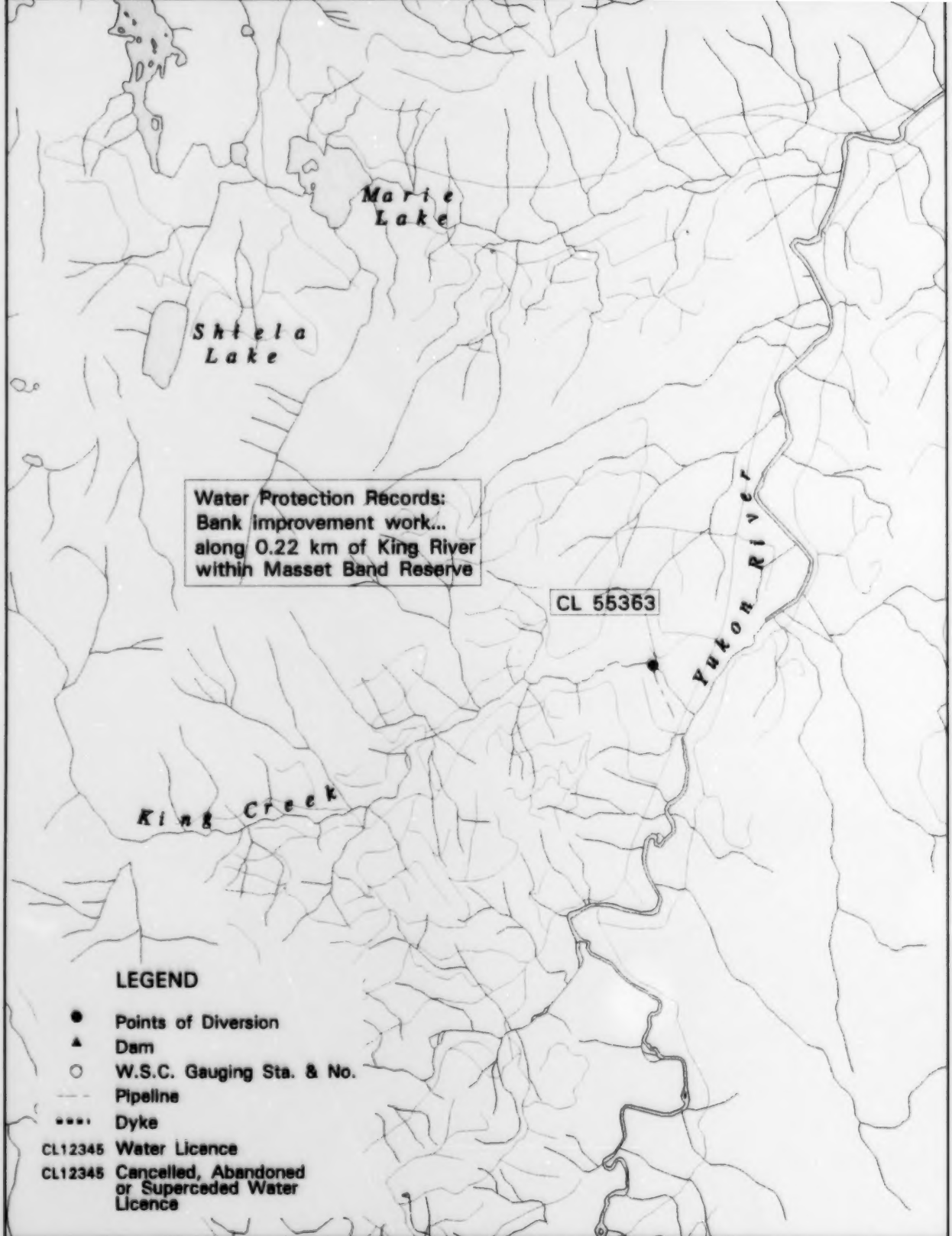
ATTACHMENT 4



Masset

Scale 1:750,000

Ministry of Environment, Lands & Parks Date: December 01, 1997 Environment & Lands Division



King Creek

Scale 1:50,000

Ministry of Environment, Lands & Parks Date: December 01, 1997 Environment & Lands Division